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MAR 29 2022

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Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)

UNITED STATES DISTRICT COURT

for the

Northern District of California
SF/Oakland DivisionCLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA

Case No.

CV22

2001

(to be filled in by the Clerk's Office)

James Hellard

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-
CITY of San Rafael,
Lynn Murphy, Carl Huber

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Jury Trial: (check one)



Yes



No

violation of

42 USC 1983

42 USC 1985

18 USC 2381

BATTERY, conversion, Trespass to chattel

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
(Non-Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name James Hellard
 Address PO Box 150405
San Rafael CA 94901
City State Zip Code
 County Marin
 Telephone Number 628-888-9073
 E-Mail Address JamesHellard@yahoo.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name City of San Rafael
 Job or Title (if known) Municipal Corporation
 Address 1400 Fifth Street
San Rafael CA 94901
City State Zip Code
 County Marin
 Telephone Number _____
 E-Mail Address (if known) _____

☐ Individual capacity ☐ Official capacity

Defendant No. 2

Name Lynn Murphy
 Job or Title (if known) Homeless Liaison Officer
 Address 1400 Fifth Street
San Rafael CA 94901
City State Zip Code
 County Marin
 Telephone Number _____
 E-Mail Address (if known) _____

☒ Individual capacity ☒ Official capacity

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Defendant No. 3

Name

CARL Huber

Job or Title (if known)

San Rafael Police Sergeant

Address

1400 fifth street

San Rafael CA 94901

City

State

Zip Code

County

MARIN

Telephone Number

E-Mail Address (if known)



Individual capacity



Official capacity

Defendant No. 4

Name

California Department of Transportation
CAL TRANS

Job or Title (if known)

State Agency, owner of encampment

Address

111 Grand Ave

OAKLAND CA 94612

City

State

Zip Code

County

Alameda

Telephone Number

E-Mail Address (if known)



Individual capacity



Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

Federal officials (a *Bivens* claim)

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

4th amendment right to bodily integrity and protection from unlawful searches and seizures.
8th cruel and unusual punishment 5th Amendment and 14th Amendment
Due Process provisions

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

They are acting under Municipal ordinances that criminalize Homelessness.

III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?

San Rafael Highway underpass.
Francisco Blvd and Yacht Club drive

- B. What date and approximate time did the events giving rise to your claim(s) occur?

within the last two years. (During Covid-19)

- C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

City of San Rafael stole the car I was living in during the pandemic for registration issues forcing me to be exposed to Covid-19 and into dangerous living on the streets.

They are now forcing me to live underneath the 101 Highway in their unsafe and unsanitary city operated encampment.

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Permanent Hearing loss from constant exposure to Freeway Noise in excess of 90 decibels

Respiratory illness from exposure to Freeway Exhaust, and other physical injury.

Loss of my vehicle and property

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

That I ^{have} basic needs met while homeless, to stop them from forcing us into this dangerous camp.

Monetary relief for physical, emotional, and damages and property loss.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 3-29-22

Signature of Plaintiff

Printed Name of Plaintiff

James B. Hill

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address